



STATE OF DELAWARE  
DEPARTMENT OF FINANCE  
DIVISION OF REVENUE  
CARVEL STATE BUILDING  
820 N. FRENCH STREET  
P.O. BOX 8911  
WILMINGTON, DELAWARE 19899-8911

**DIVISION OF REVENUE**

**PROPOSED TECHNICAL INFORMATION MEMORANDUM 97-6**

**DATE: NOVEMBER 14, 1997**

**SUBJECT: GIFTS IN CONTEMPLATION OF DEATH**

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The following shall constitute Regulations of the Division of Revenue as authorized in 30 *Del. C.* §§ 354 and 563. The comment period shall run from December 1, 1997, to December 31, 1997, and comments should be addressed to William M. Remington at the above address.

Thirty *Del. C.* § 1306(a) provides for inclusion in the gross estate of "the value of all taxable gifts, as defined in § 1401 of this title, made by the decedent in contemplation of death."

Subsection (b) of that section provides that taxable gifts made within six months of death are presumed to have been made in contemplation of death and also provides that no gifts made more than six months before death are to be treated as having been made in contemplation of death.

The state gift tax is repealed effective for gifts made on or after January 1, 1998. 71 *Del. Laws. ch. 130*.

The legislative history of *ch. 130* does not reveal an intent to alter the treatment of gifts made in contemplation of death and in fact manifests an intention that such treatment continue for purposes of the state inheritance tax. Thus, gifts that are taxable for federal gift tax purposes (i.e., those in excess of the \$10,000 annual per donee exclusion) shall be presumed made in contemplation of death and thereby included in the gross estate if they were made within six months of the donor's death.

This Regulation unless subsequently changed or withdrawn shall be effective for gifts made after December 31, 1997.

*William M. Remington*